Public Notice regarding Exemptions from FEMA Injunction, September, 2008.

On September 12, 2005, Judge Michael Moore of the US District Court in Miami issued a ruling enjoining the Federal Emergency Management Agency (FEMA) from issuing flood insurance for new developments in the habitat of the endangered Key deer and seven other federally listed species in Monroe County, Florida. The injunction will remain in place until FEMA and the U.S. Fish and Wildlife Service (FWS) come up with a plan to protect these species from the development fueled by FEMA's flood insurance.

In accordance with this ruling, FWS supplied the court with a list of properties which the agency had determined contained suitable habitat for the eight species. Although the list is basically accurate, due to computer processing or other factors, certain lands may have been listed in error and not actually affect or be located in suitable habitat.

FWS's appeal of the court's order is now final, and the parties are working to resolve this case as quickly as possible. In the meantime, to accommodate landowners wrongfully on the list who need flood insurance more quickly, the Plaintiffs have obtained the services of a consulting biologist to review individual landowner requests for removal from the injunction list.

"We are committed to working with landowners to make sure that the injunction is applied properly to only those FEMA subsidies which affect suitable endangered species habitat," said John Kostyack, Senior Counsel for the National Wildlife Federation.

THE INJUNCTION ONLY APPLIES TO NEW DEVELOPMENT - IF THERE HAS ALREADY BEEN A STRUCTURE ON YOUR PARCEL, MAKE SURE THAT THE INJUNCTION APPLIES TO YOU BEFORE YOU REQUEST AN EXEMPTION. SEE DEFINITION OF "NEW DEVELOPMENT" BELOW.

To be immediately reviewed by Plaintiffs for removal from the suitable habitat list, landowners who believe that new development on their property will not affect suitable habitat for endangered species should mail to Henry Lee Morgenstern, Attorney for Plaintiffs, at:

Henry Lee Morgenstern, P.O. Box 337, Seville, Florida 32190,

two (2) copies of the following for each parcel to be reviewed. If a single owner has a contiguous block of parcels they wish to be reviewed, all the parcels in the contiguous block can be included in one application, but there will only be one response per application. Include the following with each application:

(a) The parcel owner's name, mailing address, and phone number, AND AN E-MAIL ADDRESS FOR NOTIFICATION.

(b) A copy of property appraiser's web page showing the owner's name and the subject parcel's street address and legal description, INCUDING PARCEL ACCOUNT (RE) NUMBER(S). Please only include the first page that has the stated information, and not include the additional pages showing tax payment history.

(c) A plat map showing the location of the parcel.

(d) A zoomed-out map of the island the parcel is on, showing the parcel's location.

[NOTE: (c) and (d) can be joined in one map, even a copy of a realtor's map or a tourist map of the key will do, so long as the location of the subject parcel and name of the street it is on are shown and highlighted on the map]

(e) A statement as to whether the parcel contains any wetlands. This can be in the cover letter. The existence of wetlands alone will not disqualify a parcel for removal unless listed species habitat if affected.

(f) If any clearing has been done on the parcel since January, 2005, a copy of all permits obtained for the clearing and a statement of when and if the clearing was completed.

(g) A check for $100 for each parcel or contiguous block of parcels to be reviewed per application, made out to "Curtis Kruer" (our consulting biologist).

(Optional:) You may include any aerials, biological surveys, or other evidence the owner may wish to submit as to the history and condition of the parcel, however the conclusions in any biological surveys will not be binding, as we have our own uniform criteria which we apply to all applications equally. [Note that a clearance letter from FWS will be considered but is not dispositive.]

A SPECIAL E-MAIL ADDRESS HAS BEEN SET UP FOR ALL NOTICES AND QUESTIONS REGARDING THIS PROCEDURE: <**femakeys@yahoo.com**> NO INFORMATION WILL BE PROVIDED BY TELEPHONE, NO CALLS PLEASE.

The fee is for Plaintiffs' review, including monitoring and verification, and only parcels which, in the sole opinion of Plaintiffs, clearly are on FWS' parcel list in error and do not affect suitable listed species habitat, will be recommended by Plaintiffs for removal from the suitable habitat list. All recommendations are subject to FWS and court approval. No refunds or explanation will be given if a request is denied, other than the statement that, in the opinion of Plaintiffs, development on the parcel may affect suitable listed species habitat. All documents sent are the property of Plaintiffs and will not be returned. Plaintiffs may, at their option, decline to perform any review and return any fee paid.

BE ADVISED: This is not a re-mapping process; the suitable habitat maps are being updated by Fish and Wildlife Service as part of the litigation, and this exemption process has no bearing on that effort. This exemption process is only to identify parcels which clearly have no relation to habitat and are clearly on the list inadvertently and in error. For example, if a parcel is in the middle of a built-out subdivision, far from any native areas, it is probably not supposed to be on the list and will be removed. On the other hand, if, as of 2005 aerials, there was native habitat on or closely adjacent to your parcel, there is a good chance that your request will be denied pending a more comprehensive re-mapping done as part of the litigation. The question for this

very limited process is not whether any listed species actually reside on your property, but only if there is any way development on the parcel may affect suitable habitat, such that the parcel should remain on the list until a more comprehensive re-mapping can be done.

Close to 1000 parcels have been removed from the FEMA List under this process since we began taking applications in January, 2006. Approximately 85% of requests have been granted. The average time from receiving a complete application and the entry of a court order removing the parcel from the list has been about a month. Every effort will be made to complete decisions on parcels within 20 business days of Plaintiffs receiving a complete package of information and fee. Once Plaintiffs make a recommendation, it must be approved by the government and then submitted to the court for an order. This normally takes another couple of weeks. For an additional fee expedited review may be provided in special cases where time is of the essence. We provide e-mail notice of our recommendation only; there is also an additional fee if you want us to provide you with a copy of the court order once it is signed. Send an e-mail to **<femakeys@yahoo.com>** for more details about these services, or if you have any other questions about the process.

"NEW DEVELOPMENT" is all development where construction of the structure had not yet begun as of September 12, 2005. Reconstruction, redevelopment, renovation, replacement or expansion of a structure that existed on the site prior to September 12, 2005 ("the action") shall not be considered "new development," if (1) the action results in the same use or a less intensive use (e.g., single family home for single family home, duplex for duplex, multifamily for multifamily with the same or fewer number of units, commercial for commercial, duplex to single family home, or similar net reduction in the number of dwelling or commercial units), and (2) the action is no more than double the footprint or square footage of the original structure, or totals no more than 1500 square feet, whichever is larger, and (3) the action does not entail clearing or using any areas on the site outside of areas that were cleared, paved, or within the footprint of the pre-existing structure on September 12, 2005. A mobile home replaced with a modular home, or replaced by a home built by traditional methods, shall be considered the "same use" for purposes of this order. Nothing in this definition shall be construed to allow destruction of any native vegetation that existed on September 12, 2005, or the use of any area that had native vegetation on September 12, 2005. Nothing in this definition shall be construed to allow any action that is not otherwise permissible under applicable local zoning and building ordinances.